

## II. Amendments to the Claims

This listing of claims replaces without prejudice all prior versions and listings of claims in the application:

### Listing of Claims:

Claims 1-62 (Cancelled)

63. (Currently Amended) A system for providing a discretionary asset allocation program for at least one investor provided by or in concert with at least one conflicted person who receives variable fees or profits for providing services related to the discretionary asset allocation program, comprising:

at least one discretionary allocation program for at least one investor;

data storage means for storing data from at least one source for at least one investor;

means, operatively connected to the data storage means, for automatically implementing discretionary investment allocation decisions utilizing the discretionary asset allocation program wherein automatically implementing the discretionary investment allocation decisions are accomplished by following a process that systematically

~~63. A.~~  
reduces or eliminates the at least one conflicted person's ability to self deal wherein, the basis upon which the discretionary investment allocation decisions are implemented utilizing methodologies and parameters that are developed or maintained by at least one person who is generally or totally independent of the at least one conflicted person who is involved with the discretionary asset allocation program; and

a computer having a program, operatively connected to said means for automatically implementing discretionary investment allocation decisions ~~the automatic implementing discretionary asset allocation means~~, used to implement the methodologies and parameters developed or approved by the at least one generally or totally independent person.

64. (Previously Presented) The system of claim 63, further comprising software created by computer programmers who have no affiliation with the at least one conflicted person who may receive variable fees or profits under the program by reason of asset allocation.

65. (Previously Presented) The system of claim 63 further comprising, in the event an investor should opt out of the discretionary asset allocation program, means for processing the data from each investor that has opted out of the discretionary asset allocation services such that a tangible recommendation as to asset allocation is generated

and sent to each investor that opted out of the discretionary asset allocation services.

66. (Previously Presented) The system of claim 65 further comprising means for correlating retirement needs and life cycle stage with an appropriate asset allocation.

67. (Previously Presented) The system of claim 65 further comprising means for determining a discretionary asset allocation based on a minimum data requirement as determined or approved by the at least one independent person.

68. (Currently Amended) The system of claim 65 wherein the discretionary asset allocation program further comprises means for automatically rebalancing the discretionary asset allocation based on a data received from the investor, a third party and a facilitator on a regular basis as solely determined or approved by an independent expert.

69. (Currently Amended) The system of claim 65 wherein the discretionary asset allocation program further comprising means for automatically reallocating discretionary asset allocation based on a data received from the investor, a third party and a facilitator on a regular basis as solely

determined or approved by an independent expert.

70. (Previously Presented) The system of claim 65 wherein the discretionary asset allocation program further comprises means for automatically allocating, rebalancing and reallocating investment assets based on data from a variety of sources, as designed or approved by an independent expert.

71. (Currently Amended) The system of claim 63 further comprising means for eliminating or at least ameliorating possible economic conflict of interest by separating or appropriately combining, the determination of how much to save and how to allocate investment assets from other fee generating functions ~~such as investment management.~~

72. (Previously Presented) The system of claim 63 wherein the at least one independent person determines or approves the discretionary asset allocation and savings rate and receives fees totally independent from the fees charged for investment management.

73. (Previously Presented) The system of claim 63 wherein the at least one independent person is generally or totally independent from and unrelated to any other person who receives compensation in connection with transactions

related to the savings program, including a decision not to change any decision including discretionary asset allocations or any investment manager.

74. (Currently Amended) The system of claim 63 further comprising means for assuring that the investment manager is unaware of the investments of any one investor, but ~~but~~ rather sees only the aggregate investments of an entire plan.

75. (Previously Presented) The system of claim 63, wherein the at least one independent person determines or approves the basis for discretionary asset allocation.

76. (Previously Presented) The system of claim 75, wherein the at least one independent person is generally or totally independent from and unrelated to any other person who (1) receives compensation in connection with discretionary asset allocation or (2) to any person who receives compensation in connection with asset management.

77. (Previously Presented) The system of claim 63, further comprising means for assuring that the asset management is performed by one or more investment managers who are unaware of any individual account allocations but instead see only the aggregate of the assets to be managed.

78. (Currently Amended) The system of claim 63, wherein the assets are reallocated on a regular ~~or an~~ ~~irregular~~ basis.

79. (Previously Presented) The system of claim 63, further comprising asset classes that may include varying proportions of shares or other interests in a plurality of investments.

80. (Previously Presented) The system of claim 79, wherein the plurality of investments include collective investment vehicles.

81. (Previously Presented) The system of claim 63, further comprising means for generating a tangible report recommending or directly establishing a savings program for each investor.

Claims 82-84 (Cancelled)

85. (Currently Amended) A system for providing discretionary asset allocation services for investors participating in an employer-sponsored benefit plan, comprising:

structure for identifying funding needs of the

investors based on investor data, the investor data including at least investor age;

structure for providing discretionary asset allocation services for participating investors based on investor data using generally accepted investment principles, including at least one investment vehicle for each participating investor;

wherein the structure for providing discretionary asset allocation services for participating investors selects at least one ~~an~~ investment vehicle based on a computer program applying a methodology maintained and overseen by a financial expert who is independent of any other party who may earn variable fees or profits based on the allocation of investments; and,

wherein the structure for providing discretionary asset allocation services for participating investors provides discretionary asset allocation services in concert with a person whose fees or profits vary depending on the choice of at least one investment vehicle.

86. (Previously Presented:) The system of claim 85, wherein structure for providing discretionary asset allocation services for participating investors ameliorates conflicts of interest between establishing discretionary asset allocation and money management function.

87. (Previously Presented) The method of claim 85, wherein the structure for providing discretionary asset allocation services for participating investors provides one or more investment vehicle including at least one professionally managed commingled investment vehicle.



### III. Remarks

Reconsideration and allowance of the subject application are respectfully requested.

Claims 63-81 and 85-87 are pending in the application. Claims 63 and 85 are independent.

The undersigned and inventor Mark Greenstein would like to thank Examiner Colbert for the cordial and productive personal interview of November 9, 2005. The Examiner's helpful comments and suggestions were instrumental in preparing this response.

The specification has been amended to correct minor informalities. No new matter has been added.

Certain claims have been amended for clarity with respect to the specification, and not for any reason related to any statutory requirement.

At the interview, five documents were presented, which Applicants understand will be made of record by the Examiner. Applicants provide distinguishing comments as follows.

(i) Boodai, Khalid "An Income Determination Model for Income Sharing Investment Companies" relates to income sharing investment companies in Islamic countries. The article discloses that conflicts of interest could arise between the stockholders and the depositors. This article

fails to disclose or suggest the unique combination of structure and function claimed in the subject application whereby the discretionary investment allocation decisions are implemented utilizing methodologies and parameters that are developed or maintained by at least one person who is generally or totally independent of the at least one conflicted person who is involved with the discretionary asset allocation program; or whereby at least one investment vehicle is selected based on a computer program applying a methodology maintained and overseen by a financial expert who is independent of any other party who may earn variable fees or profits based on the allocation of investments.

(ii) Anonymous "Comments to U.S. House Committee on Commerce" relates to comments to the U.S. House Committee on Commerce reform proposals. This document proposes to designate, in legislation, an independent Federal Reserve-type board made up of nationally recognized investment managers to prescribe investment options and review alternatives annually or biennially for possible changes to Social Security private accounts. The Board members should have blind trusts, salaried compensation, etc., to prevent any potential conflict of interest. However, this document fails to disclose or suggest the unique combination of structure and function claimed in the subject application whereby the discretionary investment allocation decisions are implemented utilizing methodologies and parameters that are

developed or maintained by at least one person who is generally or totally independent of the at least one conflicted person who is involved with the discretionary asset allocation program; or whereby at least one investment vehicle is selected based on a computer program applying a methodology maintained and overseen by a financial expert who is independent of any other party who may earn variable fees or profits based on the allocation of investments.

(iii) Fox, Charles, et al., "*Blind Trusts: Easing the Burdens of Government Service*" relates to federal officials establishing blind trusts to hold assets. However, this article fails to disclose or suggest the unique combination of structure and function claimed in the subject application whereby the discretionary investment allocation decisions are implemented utilizing methodologies and parameters that are developed or maintained by at least one person who is generally or totally independent of the at least one conflicted person who is involved with the discretionary asset allocation program; or whereby at least one investment vehicle is selected based on a computer program applying a methodology maintained and overseen by a financial expert who is independent of any other party who may earn variable fees or profits based on the allocation of investments.

(iv) EP 1 222 596 relates to a system and method for applying funds to investment products using a transaction

card billing system to allow cardholders to make investment contributions. However, this document fails to disclose or suggest the unique combination of structure and function claimed in the subject application whereby the discretionary investment allocation decisions are implemented utilizing methodologies and parameters that are developed or maintained by at least one person who is generally or totally independent of the at least one conflicted person who is involved with the discretionary asset allocation program; or whereby at least one investment vehicle is selected based on a computer program applying a methodology maintained and overseen by a financial expert who is independent of any other party who may earn variable fees or profits based on the allocation of investments.

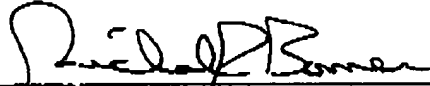
(v) Bohren, Oyvind, "The Agent's Ethics in the Principal-Agent Model" is an analysis of the current Principal Agent Model (PAM). However, this article fails to disclose or suggest the unique combination of structure and function claimed in the subject application whereby the discretionary investment allocation decisions are implemented utilizing methodologies and parameters that are developed or maintained by at least one person who is generally or totally independent of the at least one conflicted person who is involved with the discretionary asset allocation program; or whereby at least one investment vehicle is selected based on a computer program applying a methodology maintained and

overseen by a financial expert who is independent of any other party who may earn variable fees or profits based on the allocation of investments.

In view of the above, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3507. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



Attorney for Applicants

Registration No. 31,588

PATENT ADMINISTRATOR  
KATTEN MUCHIN ZAVIS ROSENMAN  
525 West Monroe Street  
Suite 1600  
Chicago, Illinois 60661-3693  
Facsimile: (312) 902-1061